IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1013 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAMSON C. CHRISTIAN & 1 - Applicant(s)
Versus
STATE OF GUJARAT & 5 - Respondent(s)

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Appearance :
MR RD RAVAL for Applicant(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 5.
PUBLIC PROSECUTOR for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 25/06/2007

ORAL JUDGMENT

Present petition has been filed by the petitioners basically to quash and set aside Criminal Case No. II 3211 of 2007 filed against the petitioner No.2 for the offence punishable under sections 3,4

and 5 of the Freedom for Religions Act, 2003 (for short “the Act”). The petitioner has also further prayed for an appropriate order directing the concerned officer, more particularly, the Home Secretary, State of Gujarat to issue a circular informing all the concerned that the Gujarat Freedom for Religions Act, 2003 has yet not come into existence and no complaint should be filed for the offence punishable under the said Act.

2. By interim order dated 25-5-2007, the learned Single Judge of this Court granted interim relief in terms of para 20(G) and also considering the fact that the Act has not come into existence as no notification has been issued, the learned Single Judge directed the respondent No.3, - Director General of Police to intimate all concerned DSPs and the District Collectorate that no notification in the official gazette appointing the date for bringing the Gujarat Freedom for Religions Act, 2003 has been issued and no offence to be registered pursuant to that.

3. Today, when the matter is called out, Shri RC Kodekar, learned APP has produced on record one circular dated 5-6-2007 issued by the Addl. Secretary, Home Department, State of Gujarat addressed to all the concerned Superintendent of Polices in the State of Gujarat informing that the State Government has not so far issued the notification in the official gazette appointing the

date for bringing the Act i.e. the Gujarat Freedom for Religions Act, 2003 into operation and that no FIR should be registered for the offence under the said Act. It is also mentioned in the said circular that all the District Collectors, all the Superintendent of Polices and the concerned officers should implement the same strictly. The circular dated 5-6-2007 issued by the Home Department, State of Gujarat is directed to be taken on record. In view of the above, the cause in the present petition would not survive, except quashing and setting aside the complaint being Criminal Case No. II 3211 of 2007 filed on 17-5-07 at Anand Town Police Station. In view of the fact that the State Government has not so far issued the notification in the official gazette appointing the date of bringing the the Gujarat Freedom for Religions Act, 2003 into operation, no complaint for the offence under the aforesaid Act is maintainable and/or tenable. Under the circumstances, the criminal complaint being Criminal Case No. II 3211 of 2007 filed at Anand Town Police Station against the petitioner No.2 is hereby quashed and set aside. Rule is accordingly made absolute.

(M.R. Shah, J.)

shekhar/-